

Message Text

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VISAS

E.O. 11652: N/A

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SUBJECT: 1976 AMENDMENTS TO INA

REF: (A) OTTAWA 4391 (NOTAL)
(B) STATE 265250

1. EMBASSY IS CORRECT THAT MANY ASPECTS OF IMPLEMENTA-
TION OF AMENDED STATUTE NOT YET SETTLED. DEPT WILL, HOW-
EVER, ATTEMPT PROVIDE ANSWERS TO QUESTIONS RAISED IN PARA
3 OF REFTEL, TO EXTENT POSSIBLE AT THIS TIME.

2. STATESIDE CRITERIA CASES--(A) ALL CASES IN PROCESSING
AT POSTS IN CANADA AS OF 1/1/77 WILL CONTINUE TO BE
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ENTITLED TO STATESIDE CRITERIA PROCESSING AT POST UNTIL

FINAL ACTION TAKEN IN CASE. AN ALIEN WHOSE CASE IS DESCRIBED IN PARA 5 OF REF(B) WHO IS ENTITLED TO STATESIDE CRITERIA PROCESSING ON THE BASIS OF EXISTING CRITERIA WILL REMAIN SO ENTITLED AND HIS CASE SHALL BE ACCEPTED FOR SUCH PROCESSING. POSTS IN CANADA DESIGNATED FOR STATESIDE CRITERIA PROCESSING WILL THUS RETAIN AS CASELOAD WHATEVER TOTAL NUMBER OF CASES MAY RESULT FROM APPLICATION OF THESE RULES. OBVIOUSLY, BECAUSE OF VISA NUMBER AVAILABILITY, THIS CASELOAD WILL BE DEPLETED ONLY GRADUALLY.

(B) DEPT IS STILL CONSIDERING QUESTION OF PERPETUATION OF "STATESIDE CRITERIA" PROGRAM FOR CASES ARISING AFTER 1/1/77 AND NOT ENTITLED TO THE SAVINGS CLAUSE PROVISION. SEVERAL FACTORS MUST BE CONSIDERED IN THIS RESPECT, INCLUDING THE FACT THAT THERE WILL UNDOUBTEDLY CONTINUE TO ARISE CASES INVOLVING CREWMEN, TRWOVS AND SURREPTITIOUS ENTRANTS IN WHICH THE SERVICE WILL, FOR HUMANITARIAN OR OTHER COMPELLING REASONS, GRANT INDEFINITE VOLUNTARY DEPARTURE TO AWAIT VISA PROCESSING. A FINAL DECISION CONCERNING THIS MATTER WILL BE MADE AND COMMUNICATED TO ALL INTERESTED POSTS PRIOR TO 1/1/77.

3. EVOLUTION OF WESTERN HEMISPHERE DEMAND--THERE ARE MANY UNCERTAINTIES IN THIS RESPECT, MOST OF WHICH CAN BE RESOLVED ONLY WITH PASSAGE OF TIME. PRELIMINARY JUDGMENT, HOWEVER, IS AS FOLLOWS. AS OF 1/1/77 AND FOR SEVERAL MONTHS THEREAFTER THERE WILL BE VIRTUALLY NO WESTERN HEMISPHERE PREFERENCE DEMAND BECAUSE OF TIME LAGS IN GETTING PETITIONS FILED AND PROBABLE ADMINISTRATIVE DELAYS IN ADJUDICATION THEREOF. DURING THIS INTERIM PERIOD THE ONLY WESTERN HEMISPHERE PREFERENCE APPLICANTS WILL BE NATIVES OF WESTERN HEMISPHERE DEPENDENCIES WHO ALREADY PETITION BENEFICIARIES AND THOSE WESTERN HEMISPHERE NATIVES WHOSE RELATIVES PROCEED ABROAD TO FILE VISA PETITIONS AT CONSULAR OFFICE RATHER THAN SUBMIT THEM TO INS IN U.S. (POSTS MUST RECOGNIZE THAT THIS LATTER PHENOMENON MAY BECOME VERY COMMON AS PETITIONERS BEGIN TO REALIZE THE EXTENT OF SERVICE'S ADJUDICATORY BACKLOG. UNFORTUNATELY, DEPT HAS NO WAY TO MEASURE POSSIBLE MAGNITUDE OF THIS PHENOMENON.) IN ANY EVENT, ALL IV NUMBERS UNCLASSIFIED

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ALLOCATED DURING INTERIM PERIOD OTHER THAN THOSE TO WHAT- EVER RELATIVELY FEW PREFERENCE ALIENS THERE MAY BE WILL, OF COURSE, BE ALLOCATED TO WESTERN HEMISPHERE NONPREFERENCE ALIENS (WHICH MEANS, EFFECTIVELY SPEAKING, THOSE ALIENS ENTITLED TO BENEFITS OF SAVINGS CLAUSE). BY 1/1/77 SOME 10,000--11,000 NUMBERS WILL HAVE BEEN USED FOR VISA ISSUANCE TO NATIVES OF MEXICO SINCE 10/1/76. THUS, THERE WILL REMAIN FOR SUCH ALIENS ONLY ABOUT 9,000-10,000

NUMBERS BEFORE 20,000 LIMIT IS REACHED FOR FY 77. FOR REMAINDER FY-77 (JAN-SEPT) THIS SITUATION WILL RESULT IN DRASTIC REDUCTION IN PROCESSING AT MEXICAN POSTS AND SIGNIFICANT INCREASE AT POSTS ELSEWHERE IN WESTERN HEMISPHERE. CUT-OFF DATE FOR NON-MEXICANS DURING JAN-SEPT PERIOD FOR NONPREFERENCE SHOULD ADVANCE MORE RAPIDLY, POSSIBLY THREE OR FOUR MONTHS WITH EACH MONTH'S ALLOCATION. WORKLOAD IMPLICATIONS OF THIS FACT WILL BE THE SUBJECT OF A SEPARATE COMMUNICATION.

4. OVER LONGER TERM, DEPT BELIEVES IT QUITE POSSIBLE THAT WESTERN HEMISPHERE NONPREFERENCE NUMBERS WILL BE LIMITED IN SUPPLY AND MAY EVEN BECOME UNAVAILABLE. DEPT FORESEES RELATIVE PREFERENCE DEMAND OF CONSIDERABLE MAGNITUDE, ESPECIALLY IN SECOND AND FIFTH PREFERENCE. IF THIS DEMAND MATERIALIZES AS ANTICIPATED IT WILL PREVENT FALL-DOWN OF NUMBERS TO NONPREFERENCE. THUS, THE ONLY WESTERN HEMISPHERE NONPREFERENCE NUMBERS WHICH MIGHT BE AVAILABLE IN THAT SITUATION WOULD CONSIST OF SEVENTH PREFERENCE CONDITIONAL ENTRY NUMBERS IN EXCESS OF THOSE USED BY CUBAN REFUGEES (THE ONLY POTENTIAL WESTERN HEMISPHERE COMPETITORS FOR SEVENTH PREFERENCE). DEPT CAN UNDERSTAND SIGNIFICANCE OF NONPREFERENCE SITUATION FOR CANADIAN RETIREES AND INVESTORS, BUT IS UNABLE TO GIVE MORE DETAILED PICTURE OF EVOLUTION OF SITUATION AT THIS TIME. KISSINGER

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